

APPEAL NO. 021447
FILED JULY 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 14, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury in the form of a repetitive trauma occupational disease to her right knee; that the respondent (carrier) is relieved of liability because the claimant did not timely report the injury to her employer; and that because the claimant did not sustain a compensable injury, she had no disability. The claimant appeals these determinations and also contends the hearing officer erred in excluding an exhibit that was not exchanged until the day of the CCH. The carrier responds, urging affirmance.

DECISION

Affirmed.

The claimant appeals the hearing officer's decision to exclude evidence that was not timely exchanged pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § (Rule 142.13(c)). The claimant offered a statement from a witness that the claimant had received the morning of the CCH. To obtain reversal of a judgment based on the hearing officer's abuse of discretion in the admission or exclusion of evidence, an appellant must first show that the admission or exclusion was, in fact, an abuse of discretion and also that the error was reasonably calculated to cause and probably did cause the rendition of an improper judgment. Texas Workers' Compensation Commission Appeal No. 92241, decided July 24, 1992; *see also Hernandez v. Hernandez*, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). We find no abuse of discretion in the hearing officer's exclusion of the documents untimely exchanged because there is no showing that the claimant could not have obtained the statement earlier and made a timely exchange.

The claimant also takes issue with the weight that the hearing officer assigned to the evidence and the credibility he accorded her testimony. However, it was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MARCUS MERRITT
6600 CAMPUS CIRCLE DRIVE EAST, #200
IRVING, TEXAS 75063.**

Roy L. Warren
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge